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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Adam Heggen, an individual

Plaintiff,

v.

Heavenly Valley, Limited Partnership; and
Does 1-10, inclusive;

Defendants.

Case No. 2:21-cv-00107-WBS-DB

**JOINT STATUS REPORT AND REQUEST
TO CONTINUE STATUS CONFERENCE;
ORDER**

**RELATED TO: 2:21-CV-01260 WBS DB
2:21-CV-01609 WBS DB
2:21-CV-02251 WBS DB**

Complaint Filed: October 21, 2020
Date Removed: January 21, 2021
District Judge: Hon. William B. Shubb
Courtroom 5, Sacramento
Magistrate Judge: Hon. Deborah Barnes
Courtroom 27, Sacramento

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TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD

Pursuant to Federal Rules of Civil Procedure 16, 23(e), and 41(a), plaintiff Adam Heggen (“Plaintiff”) and defendant Heavenly Valley Limited Partnership (“Defendant” or “Heavenly”) (collectively “the Parties”) hereby submit this joint status report regarding the status of the case and settlement approval process in this Action and four other related cases: *Gibson v. The Vail Corporation*, Case No. 2:21-cv-01260-WBS-DB (E.D. Cal.) (“*Gibson*”); *Hamilton v. Heavenly Valley, Limited Partnership*, 2:21-cv-01608-WBS-DB (E.D. Cal.) (“*Hamilton I*”); *Hamilton v. Heavenly Valley, Limited Partnership*, SC20210148 (El Dorado County Superior Court) (“*Hamilton II*”); and *Roberds v. The Vail Corporation et al.*, Case No. 2:21-cv-02251-WBS-DB (“*Roberds*”), as follows:

WHEREAS, on December 28, 2021, the Parties executed a formal, long-form Settlement Agreement that fully and finally resolves all claims in the Action, pending court approval, as well as claims pled in related cases *Hamilton I*, *Gibson*, *Hamilton II*, and *Roberds* (“the Settlement”);

WHEREAS, on February 1, 2022, the El Dorado County Superior Court entered an Order in the *Hamilton II* action granting Plaintiffs’ Motion for Preliminary Approval of the Settlement. The Order provisionally certified the settlement class, and ordered that notice be disseminated to all settlement class members (“Settlement Class Members”). Notice of class action settlement (“Notice”) went out to over 100,000 Settlement Class Members on March 22, 2022. The deadline to object to or opt-out of the Settlement expired on May 20, 2022;

WHEREAS, after considering all final approval papers, all objections to the Settlement, and the arguments of counsel and other individuals at a final approval hearing on August 19, 2022, the El Dorado County Superior Court entered an Order in the *Hamilton II* action on August 19, 2022 granting Plaintiffs’ Motion for Final Approval of the Settlement (“Final Approval Order”). A copy of the Final Approval Order is attached hereto as **Exhibit A**;

WHEREAS the Final Approval Order made the following findings concerning the Settlement, which covers the claims in this Action, among others:

- The Settlement is fair, adequate and reasonable;
- The distribution of the Notice to effectuate the Settlement has been completed in

conformance with the El Dorado Superior Court's February 1, 2022 Order Granting Preliminary Approval; the El Dorado Superior Court's March 8, 2022 Order Extending Time to Issue Notice of Class Settlement; and the El Dorado Superior Court's Order Granting Plaintiffs' Unopposed Ex Parte Application to Permit Dissemination of a Supplemental Text Message Notice and to Extend the Response Deadline to May 20, 2022;

- The Notice was adequate, satisfied due process requirements, and was the best notice practicable under the circumstances;
- The Settlement Agreement is binding on all Settlement Class Members who have not timely opted out.
- A Class is certified for settlement purposes only, which is defined as all non-exempt employees who at any time during the Covered Period worked for and were employed by Vail (including Defendant in this action) in the United States and worked primary at one of its resort locations or mountain facilities, with limited exclusions.
- Judgment is entered.
- El Dorado Superior Court will retain jurisdiction over the Parties to enforce the terms of the Judgment pursuant to California Rule of Court 3.769(h);

WHEREAS the Settlement provides that Plaintiffs will dismiss this action with prejudice within 28 days that the Final Approval Order becomes a final, non-appealable order;

WHEREAS, on or around September 24, 2022, non-parties John Linn and Mark Molina filed a motion to set aside and vacate judgment in *Hamilton II*, which is presently set for hearing in El Dorado County Superior Court on October 21, 2022;

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1 NOW THEREFORE, the Parties hereby jointly request that this Court continue the October
2 11, 2022 Status Conference for a period of six (6) months, or April 11, 2023, or as soon thereafter
3 as the Court's calendar permits.

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5 DATED: September 27, 2022

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

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7
8 By: /s/ name\
Evan R. Moses
9 Melis Atalay

10 Attorneys for Defendant
11 HEAVENLY VALLEY LIMITED
12 PARTNERSHIP

13 DATED: September 27, 2022

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14
15 By: /s/ name\
16 Julian Burns King
17 Elliot J. Siegel

18 Attorneys for Plaintiff
19 ADAM HEGGEN
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ORDER

The Court having reviewed the foregoing stipulation, and GOOD CAUSE APPEARING
THEREFORE, the Court orders as follows:

(1) The Parties shall file a Joint Status Report addressing the status of the state court
proceedings in Hamilton II, including the pending motion to set aside and vacate judgment, and
any additional information regarding the settlement in this case, by **December 5, 2022**.

(2) A Status Conference is set for **December 19, 2022 at 1:30 p.m.**

IT IS SO ORDERED.

Dated: October 3, 2022



WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE